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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/715,902

11/17/2000

John James Donnelly

1627.003

5612

27476

7590

02/05/2009

NOVARTIS VACCINES AND DIAGNOSTICS INC.  
INTELLECTUAL PROPERTY R338  
P.O. BOX 8097  
Emeryville, CA 94662-8097

EXAMINER

WEHBE, ANNE MARIE SABRINA

ART UNIT

PAPER NUMBER

1633

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* JOHN JAMES DONNELLY, KIMBERLY SUE DENIS-MIZE,  
and GARY STEVEN OTT

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Application No. 09/715,902  
Technology Center 1600

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Mailed: February 5, 2009

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Before DALE M. SHAW *Chief Appeals Administrator*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on January 12, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**LETTER TO BPAI RE WITHDRAWAL OF APPEAL**

Appellants filed a letter to the chief clerk of the BPAI regarding the withdrawal of an appeal dated December 23, 2008. Appellants filed a Request for Continued Examination (RCE) which is currently awaiting a decision. The Examiner is required to reopen prosecution.

**CONCLUSION**

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) reopen prosecution as requested by Appellants; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/cdc

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